

§ 58-89A-100. Contract requirements.

A contract between a licensee and a client company shall provide:

- (1) Unless otherwise expressly agreed by a professional employer organization and a client company in a PEO agreement, the client company retains the exclusive right of direction and control over the assigned employees as is necessary to conduct the client company's business and without which the client company would be unable to conduct its business, to discharge any fiduciary responsibility that it may have, or to comply with any applicable licensure, regulatory, or statutory requirement of the client company or an assigned employee. The PEO agreement shall provide that employment responsibilities not allocated to the licensee by the PEO agreement or this section remain with the client company.
- (2) That the licensee assumes responsibility for the payment of wages to the assigned employees as agreed to in the PEO agreement.
- (3) That the licensee assumes responsibility for the payment of payroll taxes and collection of taxes from payroll on assigned employees.
- (4) That the licensee shall have a right to hire, discipline, and terminate an assigned employee as may be necessary to fulfill the licensee's responsibilities under this Chapter and a PEO agreement. The client company shall have a right to hire, discipline, and terminate an assigned employee.
- (5) That the licensee retains a right of direction and control over the adoption of employment policies and the management of workers' compensation claims, claim filings, and related procedures in accordance with applicable federal laws and the laws of this State.
- (6) That responsibility to obtain workers' compensation coverage for assigned employees, from an entity authorized to do business in this State and otherwise in compliance with all applicable requirements, shall be specifically allocated in the PEO agreement to either the client company or the licensee. If the responsibility is allocated to the licensee under any such agreement, that agreement shall require that the licensee maintain and provide to the client company, at the termination of the agreement if requested by the client company, records regarding the loss experience related to workers' compensation insurance provided to assigned employees pursuant to the agreement. (2004-162, s. 1; 2013-413, s. 11.1(f).)